

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

DEROME MCELROY,

Plaintiff,

v.

AGENCY,

Defendant.

CASE NO. 3:21-cv-05891-DGE-JRC

REPORT AND RECOMMENDATION

NOTED FOR: January 7, 2022

This matter is before the Court on referral from the District Court (Dkt. 5) and on a *sua sponte* review of plaintiff's complaint.

"If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action." Fed. R. Civ. P. 12(h)(3). Plaintiff's complaint is devoid of allegations to vest this Court with subject-matter jurisdiction. He does not specify the basis for jurisdiction. He does not list the statutes under which he seeks relief or the defendant's name and identifying information. Therefore, the matter is subject to *sua sponte* dismissal.

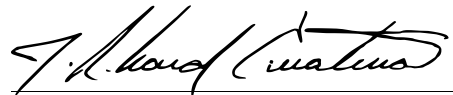
Because plaintiff is *pro se*, the Court will liberally grant leave to amend if it appears that

1 plaintiff can correct the deficiencies. *See Lopez v. Smith*, 203 F.3d 1122, 1130 (9th Cir.  
2 2000) (en banc). But here, plaintiff's allegations that he is under mind control and wants it  
3 removed are patently frivolous. Leave to amend would be futile.

4 Therefore, this matter should be dismissed without prejudice, and any pending motions  
5 should be denied.

6 Pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b), the parties shall have  
7 fourteen (14) days from service of this Report to file written objections. *See also* Fed. R. Civ. P.  
8 6. Failure to file objections will result in a waiver of those objections for purposes of *de novo*  
9 review by the district judge, *see* 28 U.S.C. § 636(b)(1)(C), and can result in a waiver of those  
10 objections for purposes of appeal. *See Thomas v. Arn*, 474 U.S. 140, 142 (1985); *Miranda v.*  
11 *Anchondo*, 684 F.3d 844, 848 (9th Cir. 2012) (citations omitted). Accommodating the time limit  
12 imposed by Rule 72(b), the Clerk is directed to set the matter for consideration on **January 7,**  
13 **2022**, as noted in the caption.

14 Dated this 21st day of January, 2021.

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16 J. Richard Creatura  
17 Chief United States Magistrate Judge  
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